Supreme Court, U.S.
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In the

Supreme Court of the United States

HUEY SHEN WU,

Petitioner,

v.

W. L. GORE & ASSOCIATES, INC.,

Respondent.

On Petition For A Writ of Certiorari
To The Supreme Court of Delaware

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1 The Fourteenth Amendment to the United States Constitution provides, in part, that "[N]o state shall deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of laws."

The trial court's judgment seriously puts American court system at risk as petitioner was denied and deprived due process right to cross-examine two lists of materials to be enjoined at trial. Both lists were simply submitted by respondent after trial, accepted by the court without verification, and included as part of permanent injunctive order. Surprisingly, one of the lists has still been kept secret barring petitioner even to review the content. No American court system ever permitted admission of such secret *ex parte* evidence and included whole-cloth in the final order without verification. The trial court's judgment shocked the entire American legal system, if not reversed will put American court system in danger. The permanent injunction also bars petitioner from working on infinite numbers of materials that have never been created in the universe. These undiscovered materials might be very beneficial to save lives by petitioner from terrorist attack. A ban on these materials hurts public interest, especially national security. The traditional four-factor test applied by courts of equity when considering whether to award permanent injunctive relief was completely departed by the trial court. Nothing in the Trade Secret Act indicates a major departure from the long tradition of equity practice should be lightly applied.

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TABLE OF AUTHORITIES

Case:
EBay Inc. et al v. Mercexchange, L. L. C. (2005)

OPINIONS BELOW

The opinion of the court of appeals is reported in case No. 527, 2006. The opinion and order of the Chancery Court of Delaware is reported in case No. 263-N.

JURISDICTION

The judgment of the court of appeals was entered on January 22, 2007, modified on January 24, 2007.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment to the United States Constitution provides, in part, that "No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; not shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

STATEMENT

Petitioner is a rare prolific inventor of certain TFE-containing polymers, specializing in chemical and biological warfare protective system for soldiers against terrorist activities. Respondent had contractual agreement with petitioner on TFE-containing polymers, which specifies non-compete for 2 years after leaving the work. In respondent's subsequent breaching contract and trade secret misappropriation suit, a settlement was reached for resolving damages but left open a trial for permanent injunctive relief sought by respondent. At trial, petitioner was denied and deprived due process right to cross-examine the lists of materials respondent seeking to be enjoined. After the trial, the lists of materials were submitted by respondent and

accepted by the trial court without verification, and included into final injunction order as factual finding. The trial court judge opinioned that the court does not know exactly what specific trade secret was misappropriated, but found that breaching of contract was valid. However, the trial court awarded respondent's motion for permanent injunctive relief with (1) 5-year term barring petitioner from working on infinite number of all TFE-containing polymers and products; (2) 10-year term barring petitioner from working on two lists of polymers which were submitted by respondent only after trial, including a secret polymer list that petitioner has never been permitted to review or cross-examine.

The 5-year term of injunction is punitive, as the scope includes infinite number of TFE-containing polymers that have never been created in this universe. Such undiscovered materials could be very beneficial to save lives especially soldier's by petitioner from terrorist attack. A ban on such materials against petitioner, a rare inventor in this field worldwide, seriously hurts public interest, especially national security. Additionally, respondent failed to prove that it has any specific trade secret at issue relating to such enormous infinite number of materials. Petitioner's contractual agreement with respondent for non-compete expired in February 2006. The court of equity abuses its discretion to award such punitive judgment.

The 10-year term of injunction on two lists of polymers is unconstitutional; as petitioner was denied to examine both lists at trial. The trial court simply excused respondent from providing and proving such lists as evidence at trial. The lists were only submitted after trial, including one secret list for attorney eyes only, barring petitioner pro se even from viewing. Both lists, including the secret list, became part of the final order. Even if petitioner could have afforded an attorney to review the list, petitioner's attorney is not permitted to disclose to petitioner what's on the list, which makes cross-examination impossible. There is no way

that the court should expect petitioner to remember what specific materials were worked on back to 17 years ago. Furthermore, petitioner's future potential employers are not permitted to review the list either, which makes potential employers highly reluctant to hire petitioner. In fact, the injunction has imposed unnecessary hardship against petitioner to obtain any employment. Unfortunately, the Supreme Court of the state of Delaware issued no opinion on the appeal, except simply excused and affirmed the trial court's judgment.

REASONS FOR GRANTING THE PETITION

A. The Court erred in departure of the traditional four-factor test applied by court of equity when considering whether to award permanent injunctive relief to a prevailing plaintiff under the Trade Secret Act.

The test requires a plaintiff to demonstrate (1) that it has suffered an irreparable injury; (2) that remedies available at law are inadequate to compensate for that injury; (3) that considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction. See US Supreme Court Case No. 05-130 (2005). EBay v. Mercexhange. The trial court departed completely from the test when awarding the permanent injunctive relief. In fact, the damage in this case has been settled, indicating the injury is repairable by compensation. Thus, respondent failed to meet the first two factors of the test. The trial court opinioned that the court does not know exactly what specific trade secret was misappropriated, showing respondent did not meet its burden to prove what specific trade secret at issue ties to such infinite number of materials to be banned and some of which have been even kept secret forever from

petitioner. Hence, the trial court erred in balance of hardships between plaintiff and defendant. The infinite number of materials may be very beneficial to mankind, especially in saving lives by respondent from terrorist attack. A ban on these materials seriously hurts public interest, especially national security. Nothing in the Trade Secret Act indicates a major departure from the long tradition of equity practice should be lightly applied.

B. The Court's decision barring petitioner from viewing the secret polymer list violated petitioner's due process rights as the secret polymer list constituted material alleged facts expressly relied on by the court in fashioning a remedy. In fact, the secret polymer list became part of the court's final order, thereby making it a factual finding, notwithstanding that its contents still remain secret from petitioner.

This issue presents a question of law. The US Supreme Court will review *de novo* questions of law decided by the courts. *Fiduciary Trust Co. v. Fiduciary Trust Co.*, 445 A.2d 927, 936 (Del. 1982). Despite repeated objections from petitioner, both while *pro se* and while represented by counsel, the trial court ruled that the Secret Polymer List, which respondent provided to the trial court after the conclusion of the trial, is to remain secret from petitioner. Thus, petitioner was never afforded an opportunity to rebut the contents of this vital list. Respondent listed whatever it wished without fear of rebuttal or challenge by petitioner. There can be little doubt that respondent had every incentive to make the list over inclusive. What makes this due process violation especially egregious is that the trial court expressly incorporated the Secret Polymer List into its award of injunctive relief, making the contents of the Secret Polymer List crucial factual findings in the case. Barring petitioner

from viewing its contents violated his right to due process. *See, e.g.*, U.S. CONST. amend. XIV.

There can be little doubt that due process requires that a party be permitted to examine and rebut the evidence used against it. *See, e.g., Interstate Commerce Commission v. Louisville & Nashville Railroad*, 227 U.S. 88, 93 (1913) (holding that "parties must be fully apprised of the evidence to be submitted or to be considered, and must be given opportunity to cross-examine witnesses, to inspect documents, and to offer evidence in explanation or rebuttal. In no other way can a party maintain its rights or make its defense. *United States v. Abilene & So. Ry. Co.*, 265 U.S. 274, 288-89 (1924) (holding that only evidence which opposing party has an opportunity to refute at the hearing may be relied upon as the basis of a finding). Here, petitioner never had such opportunity. Consequently, petitioner was deprived of the basic right to due process.

The basic notion that a defendant has a right to know what the plaintiff alleges against him is an ancient one. When, in the seventeenth century, Lord Coke repudiated the then common practice of plaintiffs not divulging their allegations until the first day of trial, he stated that "the defendant must have, as in Star Chamber and Chancery, the bill of charges delivered to him, or otherwise he need not answer it. See ALFRED H. KNIGHT, THE LIFE OF THE LAW 81 (1996). Here, petitioner did not receive the contents of the lists to be enjoined on the first day of trial (or at any time thereafter), falling short of even the practice that Lord Coke rejected over three centuries ago.

To justify that due process deprivation and its own reliance on the Secret Polymer List, the trial court cited a single case, *E.I. DuPont de Nemours Powder Co. v. Masland*, 244 U.S. 100 (1917). *Masland*, however, is inapposite here. *Masland* holds only that, under some circumstances, a defendant cannot disclose trade secrets to his own expert

witness. *Id. Masland* does not address whether it is ever permissible to allow a plaintiff to submit *ex parte* secret evidence to the trial court which evidence is thereafter used to prove material and pivotal facts.

In the present case, respondent should have been required to prove that petitioner indeed worked on the contents of the Secret Polymer List. The trial court simply excused respondent of that burden. *Masland* in no way supports such a gross violation of due process. Moreover, respondent was not required to prove the contents of the Secret Polymer List at trial to any extent. Incredibly, the trial court simply accepted whole-cloth respondent's post-trial submission of the Secret Polymer List and thereafter treated it as its own factual finding. The resulting unfairness to petitioner is undeniable. By way of example, let us assume hypothetically that "XYZ" polymer appears on the Secret Polymer List. Petitioner would not know of its inclusion and, in turn, he would not be able to rebut its inclusion even if he possessed convincing evidence showing that he never worked with "XYZ" polymer at respondent. Thus, it is clear that the court's whole-cloth *ex parte* acceptance of the Secret Polymer List violated Petitioner's due process rights.

After extensive research, only one example of a modern-day Western court system permits the use of secret evidence to prove elements of a plaintiff's or a prosecutor's case. Such court is the Yugoslavia war crimes tribunal (ICTY) and it allows the practice only on the grounds of exceptional circumstances (i.e., to protect a witness from likely retribution). Wall Street Journal Editorial Board, "*The Tribunals Fuss*," WALL ST. J., September 1, 2006, at A14.

The trial court's decision to allow petitioner's future employer's counsel to view the Secret Polymer List does little to obviate the unfair prejudice to petitioner. Further, even assuming *arguendo* that the Secret Polymer List had been submitted at trial, which it was not, and that defense

counsel were permitted to see it, which they were not, petitioner's defense counsel would have been unable to adequately test the veracity of the Secret Polymer List because they would have been barred from consulting with their client regarding whether he in fact worked with the specific polymers at issue. Even now, only respondent and the trial court have seen the content of the Secret Polymer List. The due process violation that occurred here is patently and abundantly clear. The use of secret evidence runs counter to the fundamental concepts of not just the American legal system but also to Western jurisprudence in general. This US Supreme Court should find that petitioner's due process rights were violated and reverse the trial court's decision permitting secret evidence.

In its earlier March 30, 2006 opinion, the trial court cites *Mathews v. Eldridge*, 424 US. 319 (1976) to support its decision to allow the Secret Polymer List to be kept secret from petitioner. That case too is inapposite because its holding that due process does not always warrant a social security evidentiary hearing is entirely different from allowing secret *ex parte* evidence. *See id.* The *Mathews* court allowed the social security board to rule based on the paper record, which apparently was equally available and subject to rebuttal by all parties.

Nothing in the Trade Secret Act indicates any secret evidence used by plaintiff against defendant could be admitted after trial. Nothing in the law of equity supports any secret list without cross-examination can be included into final order of permanent injunctive relief as factual finding. A major departure from the Constitution 14th Amendment right and long tradition of equity practice should not be lightly applied.

C. The Court committed reversible legal

error by excusing respondent from its burden to prove, by a preponderance of the evidence, that respondent has specific trade secret at issue which is connected to the secret polymer list. The trial court simply accepted the secret list whole-cloth, after the conclusion of the trial without requiring it to be subjected to the normal rigors of trial or examination.

By incorporating the Secret Polymer List, which respondent did not submit to the court until after trial, into its final order awarding injunctive relief, the trial court made factual findings without the petitioner being able to rebut the allegations at issue. Such factual findings violated Petitioner's right to procedural due process. Petitioner objected repeatedly, but unsuccessfully, to the use against him of evidence that was not offered at trial or and, which was never proven, at any point, by a preponderance of the evidence.

In sum, the trial court simply excused respondent from its burden to prove the accuracy of the contents of the Secret Polymer List. Respondent never proved the contents of the two polymer lists to be enjoined at trial or anytime after. The trial court should have required such proof by a preponderance of the evidence before that list too was wholly incorporated into the trial court's final order. At least, however, petitioner was able to see that list and permitted to respond to it. Incorporating those unproven and secret allegations into its final order was a blatant violation of petitioner's due process. Consequently, the US Supreme Court should find that the trial court erred in excusing respondent from proving all of its material allegations by a preponderance of the evidence and by denying petitioner a chance to rebut such allegations.

The trial court opinioned after trial acknowledging not knowing exactly what specific trade secret was misappropriated. It simply points out that respondent did not meet its burden to prove existence of any specific trade secret and its connection to which specific materials that respondent was seeking to be banned. Nothing in the Trade Secret Act indicates permanent injunctive relief on specific materials can be awarded without proof of specific trade secret exists and ties to what specific materials. A major departure from the long tradition of equity practice should not be lightly applied.

D. The Court committed reversible legal error in relying on the inevitable disclosure doctrine to justify an injunction that is not proven connected to the potential harm of the respondent. The trial court erred in relying on that doctrine to bar petitioner from working even with respondent's non-competitors.

For an injunction to issue in a trade secrets case, a plaintiff must establish the existence of a trade secret and that a particular injunction is necessary and reasonably tailored to protect that party's legitimate expectations with respect to that trade secret. *Microstrategy, Inc. v. Business Objects, S.A.*, 331 F.Supp.2d 396, 430-31 (E.D. Va. 2004)("An appropriate injunction in a trade secret case limits its scope to prohibiting actions involving the specific documents identified as trade secrets."); *see also, e.g., Merck & Co. Inc. v. Lyon*, 941 F.Supp. 1443, 1459 (M.D.N.C. 1996) (proper "injunction is limited to protecting specifically defined trade secrets");

6 Del. C. § 2002 provides:
(a) Actual or threatened misappropriation may be enjoined. Upon application to the court, an injunction shall be

terminated when the trade secret has ceased to exist, but the injunction may be continued for an additional reasonable period of time in order to eliminate commercial advantage that otherwise would be derived from the misappropriation.
(b) If the court determines that it would be unreasonable to prohibit future use, an injunction may condition future use upon payment of a reasonable royalty for no longer than the period of time the use could have been prohibited.

An injunction should be narrowly tailored "to remedy the specific harm alleged." *Miles, Inc. v. Cookson America, Inc.*, 1994 WL 676761 at *20 (citing *Lamb-Weston, Inc. v. McLain Foods, LTD.*, 941 F.2d 970, 974 (9th Cir. 1991)).
The trial court failed to apply this standard in this case. Instead, it excused respondent from its burden through a misapplication of the Inevitable Disclosure Doctrine. Under that doctrine, an employer may enjoin a former employee from working for a direct competitor where such employment would "inevitably" lead to the disclosure of that employer's trade secrets. *PepsiCo., Inc. v. Redmond,* 54 F.3d 1262, 1270-71 (7th Cir.1995); *Del Monte Fresh Produce Co. v. Dole Fresh Foods Co., Inc.*, 148 F.Supp.2d 1322, 1339 (S.D. Fla. 2001); *Proctor & Gamble Co. v. Stoneham*, 747 N.E.2d 268, 179 (Ohio App. 2000).

The doctrine does not excuse an employer from having to prove the existence of specific trade secrets and the reasonableness of any particular injunction to protect those trade secrets. "[W]hether under a theory of inevitable disclosure or otherwise, the party must establish more than the existence of generalized trade secrets and a competitor's employment of the party's former employee who has knowledge of trade secrets." In the present case, however, the trial court wrongly applied the Inevitable Disclosure Doctrine to excuse respondent's burden to prove the specific trade secrets at issue and the actual need for an injunction to protect them. The cases cited by the trial court in support of

its decision only highlight its error. In each of those cases, the plaintiff identified specific trade secrets and the injunction was narrowly tailored to prevent the employee from working for a direct competitor in a capacity in which those trade secrets would inevitably be disclosed. *Merck & Co., Inc. v. Lyon,* 941 F. Supp. 1443, 1460(M.D.N.C.1996) (injunction based on the inevitable disclosure should only issue when the trade secret is clearly identified and of significant value); *Miles,* 1994 WL 676761 at *10-12 (plaintiff must describe the subject matter of the trade secret with sufficient particularity to separate it from matters of general knowledge in the trade or of special knowledge of those persons who are skilled in the trade); *IDX Sys. Corp. v. Epic Sys. Corp.*, 285 F.3d581, 583-84 (7th Cir. 2002) ("unless the plaintiff engages in a serious effort to pin down the secrets, a court cannot do its job,"); *Del Monte Fresh Produce Co. v. Dole Food Co. Inc.*, 148 F. Supp.2d 1322, 1325 (S.D. Fla. 2001) (plaintiff "must describe with reasonable particularity the trade secrets at issue in this case."); *Diodes, Inc. v. Franzen*, 260 Cal. App. 2d244, 251 (2d Dist. 1968) (plaintiff must provide sufficient data concerning trade secret).

Here, unlike in those cases, the trial court banned petitioner, not from working for a direct competitor with respect to any particular trade secret, but from working with all TFE-containing polymers. There are potentially millions of TFE-containing polymers. (Trial Transcript at 598-99) The court's injunction is overly broad and completely unworkable. But more than that, as is clear on its face, the injunction is in no way tied to any specific trade secrets. As such, it is punitive in purpose and the Court of Chancery cannot properly award punitive relief. *See, e.g., Beals v. Washington, Intern.*, 386 A.2d 1156, 1159 (Del. Ch. 1978). For all of the reasons just stated, the trial court committed legal error in its application of the Inevitable Disclosure Doctrine to this case.

The trial court never made any factual finding as to the existence of specific trade secrets. Moreover, lacking any specific trade secrets on which to base its injunction, it also deprive petitioner's right to identify whether any claimed trade secret has ceased to exist at anytime during the term of injunction. As such, the US Supreme Court should reverse the trial court's decision to issue the injunction.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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(Slip Opinion) OCTOBER TERM, 2005

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See United States v. Detroit Timber & Lumber Co., 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

EBAY INC. ET AL. v. MERCEXCHANGE, L. L. C.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

No. 05–130. Argued March 29, 2006—Decided May 15, 2006

Petitioners operate popular Internet Web sites that allow private sellers to list goods they wish to sell. Respondent sought to license its business method patent to petitioners, but no agreement was reached. In respondent's subsequent patent infringement suit, a jury found that its patent was valid, that petitioners had infringed the patent, and that damages were appropriate. However, the District Court denied respondent's motion for permanent injunctive relief. In reversing, the Federal Circuit applied its "general rule that courts will issue permanent injunctions against patent infringement absent exceptional circumstances." 401 F. 3d 1323, 1339.

Held: The traditional four-factor test applied by courts of equity when considering whether to award permanent injunctive relief to a prevailing plaintiff applies to disputes arising under the Patent Act. That test requires a plaintiff to demonstrate: (1) that it has suffered an irreparable injury; (2) that remedies available at law are inadequate to compensate for that injury; (3) that considering the balance

of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction. The decision to grant or deny such relief is an act of equitable discretion by the district court, reviewable on appe al for abuse of discretion. These principles apply with equal force to Patent Act disputes. "[A] major departure from the long tradition of equity practice should not be lightly implied." Weinberger v. Romero-Barcelo, 456 U. S. 305, 320. Nothing in the Act indicates such a departure. Pp. 2–6.

401 F. 3d 1323, vacated and remanded.

THOMAS, J., delivered the opinion for a unanimous Court. ROBERTS,

Syllabus

C. J., filed a concurring opinion, in which SCALIA and GINSBURG, JJ., joined. KENNEDY, J., filed a concurring opinion, in which STEVENS, SOUTER, and BREYER, JJ., joined.

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 05–130

EBAY INC., ET AL., PETITIONERS v.
MERCEXCHANGE, L. L. C.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE FEDERAL CIRCUIT

[May 15, 2006]

JUSTICE THOMAS delivered the opinion of the Court.

Ordinarily, a federal court considering whether to award permanent injunctive relief to a prevailing plaintiff applies the four-factor test historically employed by courts of equity. Petitioners eBay Inc. and Half.com, Inc., argue that this traditional test applies to disputes arising under the Patent Act. We agree and, accordingly, vacate the judgment of the Court of Appeals.

I.

Petitioner eBay operates a popular Internet Web site that allows private sellers to list goods they wish to sell, either through an auction or at a fixed price. Petitioner Half.com, now a wholly owned subsidiary of eBay, operates a similar Web site. Respondent MercExchange, L. L. C., holds a number of patents, including a business method patent for an electronic market designed to facilitate the sale of goods between private individuals by establishing a central authority to promote trust among participants. See U. S. Patent No. 5,845,265. MercExchange sought to license its patent to eBay and Half.com, as it had previously done with other companies, but the parties failed to reach an agreement. MercExchange subsequently filed a patent infringement suit against eBay and Half.com in the United States District Court for the Eastern District of Virginia. A jury found that MercExchange's patent was valid, that eBay and Half.com had infringed that patent, and that an award of damages was

appropriate.

Following the jury verdict, the District Court denied MercExchange's motion for permanent injunctive relief. 275 F. Supp. 2d 695 (2003). The Court of Appeals for the Federal Circuit reversed, applying its "general rule that courts will issue permanent injunctions against patent infringement absent exceptional circumstances." 401 F. 3d 1323, 1339 (2005). We granted certiorari to determine the appropriateness of this general rule. 546 U. S. (2005).

II.

According to well-established principles of equity, a plaintiff seeking a permanent injunction must satisfy a four-factor test before a court may grant such relief. A plaintiff must demonstrate: (1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction. See, e.g., Weinberger v. Romero-Barcelo, 456 U. S. 305, 311–313 (1982); Amoco Production Co. v. Gambell, 480 U. S. 531, 542 (1987). The decision to grant or deny permanent injunctive relief is an act of equitable discretion by the district court, reviewable on appeal for abuse of discretion. See, e.g., Romero-Barcelo, 456 U. S., at 320.

These familiar principles apply with equal force to disputes arising under the Patent Act. As this Court has long recognized, "a major departure from the long tradition of equity practice should not be lightly implied." Ibid.; see also Amoco, supra, at 542. Nothing in the Patent Act indicates that Congress intended such a departure. To the contrary, the Patent Act expressly provides that injunctions "may" issue "in accordance with the principles of equity." 35 U. S. C. §283.

To be sure, the Patent Act also declares that "patents shall have the attributes of personal property," §261, including "the right to exclude others from making, using, offering for

sale, or selling the invention," §154(a)(1). According to the Court of Appeals, this statutory right to exclude alone justifies its general rule in favor of permanent injunctive relief. 401 F. 3d, at 1338. But the creation of a right is distinct from the provision of remedies for violations of that right. Indeed, the Patent Act itself indicates that patents shall have the attributes of personal property "[s]ubject to the provisions of this title," 35 U. S. C. §261, including, presumably, the provision that injunctive relief "may" issue only "in accordance with the principles of equity," §283.

This approach is consistent with our treatment of injunctions under the Copyright Act. Like a patent owner, a copyright holder possesses "the right to exclude others from using his property." Fox Film Corp. v. Doyal, 286 U. S. 123, 127 (1932); see also id., at 127–128 ("A copy-right, like a patent, is at once the equivalent given by the public for benefits bestowed by the genius and meditations and skill of individuals, and the incentive to further efforts for the same important objects" (internal quotation marks omitted). Like the Patent Act, the Copyright Act provides that courts "may" grant injunctive relief "on such terms as it may deem reasonable to prevent or restrain infringement of a copyright." 17 U. S. C. §502(a). And as in our decision today, this Court has consistently rejected invitations to replace traditional equitable considerations with a rule that an injunction automatically follows a determination that a copyright has been infringed. See, e.g., New York Times Co. v. Tasini, 533 U. S. 483, 505 (2001) (citing Campbell v. Acuff-Rose Music, Inc., 510 U. S. 569, 578, n. 10 (1994)); Dun v. Lumbermen's Credit Assn., 209 U. S. 20, 23– 24 (1908).

Neither the District Court nor the Court of Appeals below fairly applied these traditional equitable principles in deciding respondent's motion for a permanent injunction. Although the District Court recited the traditional four-factor test, 275 F. Supp. 2d, at 711, it appeared to adopt certain expansive principles suggesting that injunctive relief could not issue in a broad swath of cases. Most notably, it

concluded that a "plaintiff's willingness to license its patents" and "its lack of commercial activity in practicing the patents" would be sufficient to establish that the patent holder would not suffer irreparable harm if an injunction did not issue. Id., at 712. But traditional equitable principles do not permit such broad classifications. For example, some patent holders, such as university researchers or self-made inventors, might reasonably prefer to license their patents, rather than undertake efforts to secure the financing necessary to bring their works to market themselves. Such patent holders may be able to satisfy the traditional four-factor test, and we see no basis for categorically denying them the opportunity to do so. To the extent that the District Court adopted such a categorical rule, then, its analysis cannot be squared with the principles of equity adopted by Congress. The court's categorical rule is also in tension with Continental Paper Bag Co. v. Eastern Paper Bag Co., 210 U. S. 405, 422–430 (1908), which rejected the contention that a court of equity has no jurisdiction to grant injunctive relief to a patent holder who has unreasonably declined to use the patent.

In reversing the District Court, the Court of Appeals departed in the opposite direction from the four-factor test. The court articulated a "general rule," unique to patent disputes, "that a permanent injunction will issue once infringement and validity have been adjudged." 401 F. 3d, at 1338. The court further indicated that injunctions should be denied only in the "unusual" case, under "exceptional circumstances" and "'in rare instances . . . to protect the public interest.'" Id., at 1338–1339. Just as the District Court erred in its categorical denial of injunctive relief, the Court of Appeals erred in its categorical grant of such relief. Cf. Roche Products v. Bolar Pharmaceutical Co., 733 F. 2d 858, 865 (CAFed 1984) (recognizing the "considerable discretion" district courts have "in determining whether the facts of a situation require it to issue an injunction").

Because we conclude that neither court below correctly applied the traditional four-factor framework that governs the

award of injunctive relief, we vacate the judgment of the Court of Appeals, so that the District Court may apply that framework in the first instance. In doing so, we take no position on whether permanent injunctive relief should or should not issue in this particular case, or indeed in any number of other disputes arising under the Patent Act. We hold only that the decision whether to grant or deny injunctive relief rests within the equitable discretion of the district courts, and that such discretion must be exercised consistent with traditional principles of equity, in patent disputes no less than in other cases governed by such standards.

Accordingly, we vacate the judgment of the Court of Appeals, and remand for further proceedings consistent with this opinion.

It is so ordered.

ROBERTS, C. J., concurring